IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

WP(C).No. 670 OF 2004(D)

PETITIONER:

K.SADASIVAN NADAR,
S/O. K.KOCHU KUNJU NADAR, AGED 56 YEARS,
HAVILDAR DRIVER 4168 (RETD.), POLICE HEAD QUARTERS
TRIVANDRUM (RESIDING AT ANUPAMA, MALAYAM POST,
TRIVANDRUM).

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVT.,
DEPARTMENT OF HOME, SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, TRIVANDRUM.

3. THE ACCOUNTANT GENERAL (A & E),
KERALA, TRIVANDRUM.

GOVERNMENT PLEADER SRI. SHYSON P. MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) 670/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF THE ORDER NO. M1/54558/2000 OF THE 2ND RESPONDENT DATED 13.9.2001.
EXT.P2	TRUE COPY OF THE ORDER NO. M1/54558/2000 OF DO. DATED 23.1.2002.
EXT.P3	TRUE COPY OF THE ORDER NO. 37198/K1/03/HOME OF THE GOVERNMENT DATED 15.9.2003.

RESPONDENTS' EXHIBITS:

EXT.R1	TRUE COPY OF DECLARATION SUBMITTED BY THE PETITIONER DATED 14.8.2001.

// TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN, J.

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W.P.© 670/2004

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DATED THIS, THE 6TH DAY OF DECEMBER, 2006.

J U D G M E N T

Petitioner was appointed as a Havildar Driver in the Police Department on 10.7.1978. On completion of 23 years of service, he opted for Higher Grade- III. Accordingly, by Ext.P1 his pay was fixed at Rs. 5,800/- with effect from 10.7.2001, the year in which he completed 23 years of service. His junior Mr. Sukumaran Nair who entered service on 19.1.1979 completed 23 years of service on 19.1.2002 and by Ext.P2 his pay was fixed in the third Higher Grade on such completion of 23 years of service and his pay was accordingly fixed at Rs. 6950/- from 19.1.2002. The grievance of the petitioner is that his junior's pay was fixed higher to that of his. According to him, he is entitled for refixation of his pay as per G.O.(P) No. 3000/98/Fin. Dated 25.11.1998. As per Rule 9(2) of the said Notification, if an employee draws his next increment in the revised scale under Sub rule 9 (1) and thereby becomes eligible for higher pay than his senior whose next increment falls due at a later date, then the pay of such

senior shall be refixed equal to the pay of the junior from the date on which the junior becomes entitled to higher pay. Though the petitioner made a representation seeking fixation of his pay, the same was turned down by Ext.P3 dated 15.9.2003 stating that as per the existing rules, there is no provision for granting re-option. According to the petitioner, he is not seeking for any re-option for any time bound higher grade, but only seeks the benefit of the rules regarding fixation of pay in the revised scale as per Rule 9(2) of G.O.(P) No. 3000/98/Fin. Dated 25.11.1998. Though specifically the said rule is not referred to in the writ petition, this was the sum and substance of the arguments raised by the learned counsel of the petitioner.

2. In the absence of any specific plea raised seeking such relief with reference to Rule 9(2) of the Government Order referred to as above, it is only appropriate that he be given an opportunity to file a representation before the Government through the Director General of Police, Thiruvananthapuram, within a period of one month. The Director General, Thiruvananthapuram shall forward the same to the Principal Secretary to Government who shall consider such representation in the light of Annexure III Rule, more particularly Rule 9(2) of the aforesaid rules in G.O.(P) 3000/98/Fin. Dated 25.11.1998 and pass appropriate orders and

communicate the same to the petitioner. The same shall be done, as expeditiously as possible, at any rate, within a period of three months since the petitioner has already retired from service as early as on 31.12.2003.

A copy of this order shall be produced by the petitioner before the concerned respondents for information and compliance.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

knc/-